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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/795,861

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David Chelchowski

LP-02-003C2

1255

7590

01/30/2006

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EXAMINER

BOCHNA, DAVID

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In regard to claim 1, the limitation "a substantially deformable first stop" was not described in the specification at the time the application was filed.

In regard to claim 11, the whole claim is considered to be new matter.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said pipe" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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Claim 1, line 13, it is unclear what is meant by "being substantially vertical with respect to the longitudinal axis of the body". Does this mean that the stops are perpendicular to the longitudinal axis?

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-9 are rejected on the ground of nonstatutory double patenting over claims 1-9 of U. S. Patent No. 6,702,336 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: The wording in claims 1-9 of the present invention are identical to the wording of claims 1-9 of Patent No. 6,702,336, except for the last limitation of claim 1 of the present invention, which reads "wherein the distance between the second pipe position and the socket outer end defines an insertable length of the pipe that is insertable in the socket". However, this limitation is fully disclosed in the patent (as seen in fig. 3). The additional limitation is inherent in the patent specification and drawings, as the second stop acts as a final stop limiting any

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further movement of the pipe into the body. Therefore, it is obvious that the distance between second stop and the socket end would define an insertable length of the pipe that is insertable in the socket.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Response to Arguments

7. Applicant's arguments filed 9/30/05 have been fully considered but they are not persuasive. Applicant argues against the "obviousness-type" double patenting rejection that was made in the last office action. However, the previous double patenting rejection made in the last office action was a "non-obvious-type" double patenting rejection. The rejection stated that patent 6,702,336 anticipated the presently claimed invention because the subject matter claimed in the instant application was and is fully disclosed in the specification and claims of the patent, as described in better detail above. Therefore the double patenting rejection has been maintained.

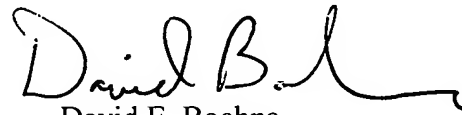
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David E. Bochna", with a stylized flourish extending to the right.

David E. Bochna
Primary Examiner
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